

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JOHN A. GRACE,

Plaintiff,

vs.

JAY MCNALL & MICHAEL ZIDACK,

Defendants.

NO. CV-07-016-JLQ

ORDER DENYING PLAINTIFF'S
MOTION OF RECONSIDERATION
FOR THE APPOINTMENT OF
COUNSEL

BEFORE THE COURT is Plaintiff's Motion of Reconsideration for the Appointment of Counsel. (Ct. Rec. 12). The Plaintiff first requested appointment of counsel on January 16, 2007, stating that he cannot afford counsel; has limited knowledge of law; has limited access to proper legal documents or the ability to investigate issues of his claim, and; that the case involves complex issues. (Ct. Rec. 4). Through an Order entered February 20, 2007, the court denied this request because the record did not reflect exceptional circumstances and the Plaintiff had adequately articulated his claims. (Ct. Rec. 9). Plaintiff's present motion restates that he is indigent and cannot afford counsel, is unable to perform an investigation, lacks the ability to present his own case, and has limited access to legal documents. However, Plaintiff now asserts that the case will likely turn on determinations of credibility and will most likely require the testimony of expert witnesses.

This court has discretion to designate counsel pursuant to 28 U.S.C. § 1915(e)(1) only under exceptional circumstances. *Terrell v. Brewer*, 925 F.2d 1015, 1017 (9th Cir. 1991). Determining whether exceptional circumstances exist requires evaluating "the likelihood of success on the merits and plaintiff's ability to articulate his claims *pro se* in light of the complexity of the legal issues involved." *Id.* (citations omitted). Again, based upon the record before the court, Plaintiff has demonstrated an adequate ability to

1 proceed *pro se* and has not presented exceptional circumstances that warrant the
2 appointment of counsel to assist the Plaintiff at this time. Accordingly, Plaintiff's Motion
3 of Reconsideration for the Appointment of Counsel is **DENIED**.

4 **IT IS SO ORDERED.** The Clerk of this court shall enter this Order and forward
5 copies to Plaintiff and counsel for the Defendants.

6 **DATED** this 8th day of March 2007.

7 s/ Justin L. Quackenbush
8 JUSTIN L. QUACKENBUSH
9 SENIOR UNITED STATES DISTRICT JUDGE
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